

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**KEVIN A. TOLLIVER,**

**Plaintiff,**

**v.**

**OHIO DEPARTMENT OF  
REHABILITATION AND  
CORRECTION, *et al.*,**

**Defendants.**

**Case No. 2:22-cv-4567**

**Judge Edmund A. Sargus, Jr.**

**Magistrate Judge Kimberly A. Jolson**

**ORDER**

On February 28, 2024, the Magistrate Judge issued a Report and Recommendation (“R&R”) recommending that Plaintiff Kevin A. Tolliver’s Motion for Order to Show Cause and Emergency Temporary Injunction/Restraining Order (ECF No. 15) be denied. (ECF No. 18.) Mr. Tolliver asks the Court for two temporary restraining orders for alleged inadequacies with Ohio Department of Rehabilitation and Correction’s Ramadan meal plan and a lack of Jumu’ah services at Ohio prisons. (ECF No. 15, PageID 244.)

Although Mr. Tolliver was advised of the date by which he needed to file any objections (March 13, 2024), none has been filed. (*See* ECF No. 18.)

Mr. Tolliver filed his Motion on February 20, 2024. (ECF No. 15.) The Magistrate Judge issued the R&R on February 28, 2024. (ECF No. 18.) The 14-day period by which Mr. Tolliver had to object to the R&R ended after the beginning of Ramadan, which this year took place from March 10, 2024 until April 9, 2024. Thus, the Court addresses whether part of Mr. Tolliver’s Motion is moot.

Under Article III, § 2, of the Constitution, this Court may only adjudicate actual ongoing cases or controversies. *See Chirco v. Gateway Oaks, L.L.C.*, 384 F.3d 307, 309 (6th Cir. 2004). Such controversies “must be extant at all stages of review.” *Arizonans for Off. English v. Arizona*, 520 U.S. 43, 67 (1997).

Despite the conclusion of Ramadan, the Court concludes the dispute over Ramadan meals fits one of the exceptions to the mootness doctrine—“capable of repetition, yet evading review.” *See Chirco*, 384 F.3d at 309. The challenged action was in its duration too short to be fully litigated before its cessation or expiration, and there is a reasonable expectation that Mr. Tolliver will encounter the same action again given his term of imprisonment. *Id.*; *see also Aamer v. Obama*, 742 F.3d 1023, 1042 (D.C. Cir. 2014) (finding the “capable of repetition yet evading review” exception to the mootness doctrine applied in an injunction action claiming that force-feeding protocols preventing Guantanamo detainees from engaging in communal prayers violated their rights under the Religious Freedom Restoration Act of 1993 although Ramadan ended).

Having analyzed the R&R, it is **ADOPTED** and **AFFIRMED**. (ECF No. 18.) For the reasons set forth in the R&R, Mr. Tolliver’s Motion is **DENIED**. (ECF No. 15.)

This case remains open.

**IT IS SO ORDERED.**

5/13/2024  
DATE

s/Edmund A. Sargus, Jr.  
**EDMUND A. SARGUS, JR.**  
**UNITED STATES DISTRICT JUDGE**